HIGH COURT OF JUDICATURE CHHATTISGARH :: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION No. 5861 OF 2005

PETITIONER : Secretary, Gramodyog Sahkari Samiti Maryadit, Gole Bazar, Bilaspur (C.G.)

Versus

RESPONDENTS

1. Municipal Corporation Bilaspur, Through the Commissioner, Municipal Corporation, Vikas Bhawan, Bilaspur (C.G.)

2. Officer In-charge (Marketing Department) Nagar Palika Nigam, Bilaspur (C.G.)

Present : Mr. H.B.Agrawal, Sr.Advocate, with Mr. K.S.Pawar, learned counsel for the petitioner.

Mrs. Hamida Siddiqui, learned counsel for respondents.

ORAL ORDER

(Passed on 9th December 2005)

This writ petition is directed against the notice issued by the second respondent, marked as Annexure P-2 dated 08.11.2005, alleging that the petitioner-Institution has encroached upon the subject property owned by the Municipal Corporation and calling upon the petitioner to remove the encroachment within 15 days and report the same to the Corporation. Admittedly notice –Annexure P/2 was served on the petitioner on 08.11.2005 itself. The petitioner quite curiously without submitting his reply/objection, if any, to the impugned action, slept over the matter and moved this writ petition at a belated stage.

There is no need for this Court to appreciate the self-serving averments made in this writ petition at this stage. If the petitioner were to file his reply/objections to the impugned show cause notice Annexure P-2 within the time granted by the Corporation, the Corporation itself would have appreciated and if he were to show good ground not to proceed with the further action in pursuance to Annexure P-2, the Corporation itself would have dropped the proceedings. The conduct of the petitioner cannot be countenanced. It cannot straightaway approach this Court under Article 226 of the Constitution of India without first filing objections/reply to the impugned notice. The petitioner cannot convert this Court into trial Court to decide the question of title and ownership. Looking from any angle, I do not find any justification to entertain this writ petition and it is accordingly dismissed. There shall be no order as to costs.

Sd/-
Chief Justice

Subby